

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on November 17, 2005, the Examiner rejected claims 1 and 3-34.

Rejection under 35 U.S.C. § 112

In the Office Action, the Examiner rejected claims 22-25 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully traverse and provide the following remarks.

MPEP 2173 states:

The primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent. A secondary purpose is to provide a clear measure of what applicants regard as the invention so that it can be determined whether the claimed invention meets all the criteria for patentability and whether the specification meets the criteria of 35 U.S.C. 112, first paragraph with respect to the claimed invention.

Applicants respectfully submit that claims 22-25, when read in the context of amended independent claim 19, inform the public as to the boundaries of the scope of the patent by including specific examples of items that can comprise the load. The items listed in claims 22-25 (golf bag, backpack, camping equipment and luggage) are well known items and give more clarity, not indefiniteness, to the claims of the present invention. Thus, Applicants respectfully request that the Examiner withdraw the rejection under Section 112, second paragraph, to claims 22-25.

Rejections under 35 U.S.C. § 102

A. Sheppard '093

The Examiner rejected claims 1, 3-5, 9, 11-21, 26 and 28-34 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,645,093 to Sheppard (Sheppard '093). In response, Applicants amended independent claims 1, 13, 14, 19, 31 and 32 and provide the following remarks. The standard for a Section 102 rejection is set forth in M.P.E.P 706.02, which provides:

[F]or anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.

Applicants respectfully submit that the cited reference does not teach every aspect of the amended claims. Applicants added the following claim language to independent claims 1, 13, 14, 19 and 31:

wherein said stabilizing arm and said opposing arm further comprise specific contours comprising a dorsal segment and an anterior segment, and wherein said opposing arm comprises a lateral extension that extends from said anterior segment.

Applicants added the following language to independent claim 32:

wherein said shoulder support members further comprise specific contours comprising a dorsal segment and an anterior segment, wherein one of said shoulder support members comprises a lateral extension that extends from said anterior segment

Applicants added this language to further clarify the “ergonomic” advantages of the present invention. Both the contours of the dorsal and anterior segments and the lateral

extension, aid a user in carrying a load with less stress. The lateral extension aids a user in lifting the load bearing apparatus and in placing it on the user's shoulder and back area with minimal effort. In addition, the lateral extension further stabilizes and distributes the load. See Specification, page 13, lines 4-5. This is particularly helpful where the load is a golf bag, because the increased length helps to distribute the weight diagonally against the back of a user, minimizing strain on any particular muscle or group of muscles. See Specification, page 13, lines 8-12. The contours of the dorsal and anterior segment also aid a user in carrying a load with less stress by functioning to improve the fit of and to further brace the load bearing device against the shoulder of a user. See Specification, page 11, lines 11-18.

In contrast, Sheppard '093 does not contain these same "ergonomically" advantageous structural limitations. Sheppard's BASKETBALL SHOT TRAINER is a restrictive device that controls the movement and placement of a basketball player's arm and elbow. It would be very difficult to carry anything while using the BASKETBALL SHOT TRAINER. In fact, if a user tried to carry a load while also wearing the BASKETBALL SHOT TRAINER, the user would subject him or herself to an increased risk of injury because of the movement limitations the BASKETBALL SHOT TRAINER places upon the user.

Thus, Applicants respectfully submit that the cited reference does not teach every aspect of the claimed invention. Consequently, Applicants respectfully request the withdrawal of the Examiner's rejection under 35 U.S.C. § 102.

B. Lee

The Examiner rejected claims 1, 3-7, 9-11, 15, 16, 19-21, 27 and 28 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,963,904 to Lee (Lee). In response, Applicants amended independent claims 1, 14 and 19 and provide the following remarks.

As stated above, the standard for a Section 102 rejection is set forth in M.P.E.P 706.02, which provides:

[F]or anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.

Applicants respectfully submit that the cited reference does not teach every aspect of the amended claims. Applicants added the following claim language to independent claims 1, 14 and 19:

wherein said stabilizing arm and said opposing arm further comprise specific contours comprising a dorsal segment and an anterior segment, and wherein said opposing arm comprises a lateral extension that extends from said anterior segment.

As discussed above, Applicants added this language to further clarify the “ergonomic” advantages of the present invention. Both the contours of the dorsal and anterior segments and the lateral extension, aid a user in carrying a load with less stress. The lateral extension aids a user in lifting the load bearing apparatus and in placing it on the user’s shoulder and back area with minimal effort. In addition, the lateral extension further stabilizes and distributes the load. See Specification, page 13, lines 4-5. This is particularly helpful where the load is a golf bag, because the increased length helps to distribute the weight diagonally against the back of a user, minimizing strain on any particular muscle or group of muscles. See Specification, page 13, lines 8-12. The contours of the dorsal and anterior segment also aid a user in carrying a load

with less stress by functioning to improve the fit of and to further brace the load bearing device against the shoulder of a user. See Specification, page 11, lines 11-18.

In contrast, Lee does not contain these same “ergonomically” advantageous structural limitations. More specifically, Lee does not teach the lateral extension that further stabilizes and distributes the load or the specific contours comprising the dorsal and anterior segments. Lee is a portable camera support assembly that benefits the user by eliminating the necessity for the user to constantly use his or her hand. See Lee, column 1, lines 31-32. Lee is not configured to support the loads the present invention supports and is especially unsuitable for allowing a user to carry such loads in an ergonomically friendly manner. Any heavy load placed on camera mount 4 would put the user at risk of back injury because of the amount of stress placed on the user’s back.

Thus, Applicants respectfully submit that the cited reference does not teach every aspect of the claimed invention. Consequently, Applicants respectfully request the withdrawal of the Examiner’s rejection under 35 U.S.C. § 102.

C. Sheppard ‘705

The Examiner rejected claims 1, 3-11, 15, 19-21, 27, 28 and 32 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,746,705 to Sheppard (Sheppard ‘705). In response, Applicants amended independent claims 1, 19 and 32 and provide the following remarks.

As stated above, the standard for a Section 102 rejection is set forth in M.P.E.P 706.02, which provides:

[F]or anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.

Applicants respectfully submit that the cited reference does not teach every aspect of the amended claims. Applicants added the following claim language to independent claims 1 and 19:

wherein said stabilizing arm and said opposing arm further comprise specific contours comprising a dorsal segment and an anterior segment, and wherein said opposing arm comprises a lateral extension that extends from said anterior segment.

Applicants added the following language to independent claim 32:

wherein said shoulder support members further comprise specific contours comprising a dorsal segment and an anterior segment, wherein one of said shoulder support members comprises a lateral extension that extends from said anterior segment

As discussed above, Applicants added this language to further clarify the “ergonomic” advantages of the present invention. Both the contours of the dorsal and anterior segments and the lateral extension, aid a user in carrying a load with less stress. The lateral extension aids a user in lifting the load bearing apparatus and in placing it on the user’s shoulder and back area with minimal effort. In addition, the lateral extension further stabilizes and distributes the load. See Specification, page 13, lines 4-5. This is particularly helpful where the load is a golf bag, because the increased length helps to distribute the weight diagonally against the back of a user, minimizing strain on any particular muscle or group of muscles. See Specification, page 13, lines 8-12. The contours of the dorsal and anterior segment also aid a user in carrying a load with less stress by functioning to improve the fit of and to further brace the load bearing device against the shoulder of a user. See Specification, page 11, lines 11-18.

In contrast, Sheppard '705 does not contain these same “ergonomically” advantageous structural limitations. More specifically, Sheppard '705 does not teach the lateral extension that further stabilizes and distributes the load or the specific contours comprising the dorsal and anterior segments. In fact, Sheppard's improved arm sling does not distribute the weight of the load as the above-mentioned limitations of the present invention do. Rather, it focuses the weight of the load on the first curved member for engaging the neck of the user. If the user used Sheppard's arm sling to carry a heavy load, the user would feel discomfort from the pressure placed on the person's neck.

Thus, Applicants respectfully submit that the cited reference does not teach every aspect of the claimed invention. Consequently, Applicants respectfully request the withdrawal of the Examiner's rejection under 35 U.S.C. § 102.

**CONCLUSION**

Applicants submit that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicants request favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 17 day of February, 2006.

Respectfully submitted,



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